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12 Attorneys for Plaintiffs

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 COMPASSION OVER KILLING et al., ) CASE NO. 3:13-CV-01385-VC  
17 Plaintiffs, )  
18 v. )  
19 FOOD AND DRUG ADMINISTRATION et ) **JOINT MOTION FOR LEAVE TO**  
20 al., ) **EXCEED PAGE LIMIT IN CROSS-**  
21 Defendants. ) **BRIEFING FOR SUMMARY**  
22 ) **JUDGMENT**

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23 Defendants the Food and Drug Administration and the Honorable Margaret Hamburg,  
24 M.D., its Commissioner; the Agriculture Marketing Service and the Honorable David R.  
25 Shipman, its Administrator; the Food Safety Inspection Service and the Honorable Alfred V.  
26 Almanza, its Administrator; and the Federal Trade Commission and the Honorable Edith  
27 Ramirez, its Chairman (collectively, "Defendants"), along with Plaintiffs Compassion Over  
28 JOINT MOTION FOR LEAVE TO EXCEED PAGE LIMIT IN CROSS-BRIEFING FOR SUMMARY  
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1 Killing, Animal Legal Defense Fund, Elizabeth Barrett, Andrea Bock, Linda Calbreath, Jason  
2 Canada, Jeri Opalk, and Humberto Retana (collectively, "Plaintiffs") by and through their  
3 counsel of record, file this Joint Motion for Leave to Exceed Page Limit in Cross-Briefing for  
4 Summary Judgment, and in support thereof state as follows:

5 1. This Honorable Court's Standing Order for Civil Cases requires that, in the event  
6 of cross-motions for summary judgment, the parties must file a total of four briefs sequentially,  
7 with the first two briefs limited to 25 pages, the third brief limited to 20 pages, and the fourth  
8 brief limited to 15 pages.

9 2. Plaintiffs filed a Motion for Summary Judgment on July 23, 2014. (Doc. 35)  
10 Defendants' opposition and cross-motion for summary judgment is due August 27, 2014.

11 3. In this action, Plaintiffs challenge the denial of four separate citizen petitions  
12 requesting the initiation of rulemaking proceedings by three separate defendant federal agencies:  
13 the Food and Drug Administration; the Federal Trade Commission; and the Agriculture  
14 Marketing Service and Food Safety Inspection Service within the United States Department of  
15 Agriculture. While each of the petitions requested promulgation of the same new regulations,  
16 each federal agency analyzed the petition with regard to the specific statutes enforced by that  
17 agency. Each agency's actions in denying Plaintiffs' citizen petition therefore require an  
18 independent legal analysis under the Administrative Procedures Act.

19 4. For purposes of efficiency, all Defendants intend to file one consolidated brief in  
20 support of summary judgment and in opposition to Plaintiffs' motion. However, in order to  
21 substantively address each agency's denial of Plaintiffs' citizen petitions and the legality of each  
22 agency's actions under the Administrative Procedures Act, Defendants require more than 25  
23 pages for their consolidated brief.

24 5. Defendants request leave of this Court to file one, consolidated brief on behalf of  
25 all Defendants, which shall not exceed 40 pages.

26 6. Correspondingly, Plaintiffs request leave of this Court to file a reply/opposition  
27 brief limited to 35 pages.

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7. Defendants request leave of this Court to file a reply brief limited to 20 pages.

For all the foregoing reasons, the parties respectfully request that this Court grant their

**Joint Motion for Leave to Exceed Page Limit in Cross-Briefing for Summary Judgment.**

DATED: August 21, 2014

Respectfully submitted,

By: STUART DELERY  
Assistant Attorney General, Civil Division

MICHAEL S. BLUME  
Director, Consumer Protection Branch

/s/ Ann Entwistle  
ANN ENTWISTLE  
Trial Attorney, Consumer Protection Branch  
On behalf of Defendants

By: /s/ Jennifer S. Rosen  
Jennifer S. Rosen  
BINGHAM MCCUTCHEN LLP  
Jennifer S. Rosen  
On behalf of Plaintiffs

**[REDACTED] ORDER**

Having reviewed the parties' Joint Motion for Leave to Exceed Page Limit in Cross-Briefing for Summary Judgment, and for good cause shown,

**IT IS HEREBY ORDERED:**

The parties' joint motion is **GRANTED**. Defendants' opening/opposition brief is limited to 40 pages. Plaintiffs' opposition/reply is limited to 35 pages. Defendants' reply is limited to 20 pages.

ENTERED this 25<sup>th</sup> day of August, 2014.

DATED: August 25, 2014

  
HON. VINCE CHHABRIA  
United States District Judge